

Land & Natural Resources Use and Management Gap Analysis

Number 1: Contract Preparation

“As-Is”	“To-Be”	Initial Implementation Points (Final Gaps by February 28, 2004)
<ul style="list-style-type: none">• Contract preparation is developed primarily for lands under specific land use contract.• Contract preparation, except for range units, is generally performed at a tract level, and rarely unitizes tracts.• Environmental clearances are usually sought during the contract development process.• Application of the valuation for land and natural resource use is inconsistent.• Sometimes no valuation exists as a baseline for negotiation or bidding.	<ul style="list-style-type: none">• Contract planning is performed for a Management Unit (MU).• Environmental clearances are secured during wide area planning.• Expanded categorical exclusions will reduce the need for environmental documentation.	<ul style="list-style-type: none">• Develop contract plans for all MUs passing suitability.

Number 2: Beneficiary Consent

“As-Is”	“To-Be”	Initial Implementation Points (Final Gaps by February 28, 2004)
<ul style="list-style-type: none"> • Consent is secured during the leasing or permitting process. • Securing consent requires an inordinate amount of time and resources. • Consent is obtained for each tract. • Consent procedures are frequently inconsistent across regions or agencies. • Statutes and regulations contain inconsistent consent requirements. • Securing majority of ownership consent on highly fractionated lands is difficult. • No clear trust-wide criteria exist for defining highly fractionated land. • Program resources issue consent notices, receive and tabulate responses locally. • Consent calculation procedures vary according to local office practices (e.g. owners vs. interest) • Indian Land Consolidation Act of 2000 (ILCA) established a sliding scale of ownership interest. 	<ul style="list-style-type: none"> • Consent is secured during contract planning. • Automated consent request and response tabulation is performed at a regional level. • Contract consent is obtained by aggregating ownership interests of the component tracts. • Modified statutes and regulations reflect a single consent set of business rules for consent and authority to grant. • Highly fractionated land, defined as more than 50 ownership interests with no one owner having over 5% in an MU, does not require consent, with the exceptions of forestry and subsurface extraction. • Non-highly fractionated land would require 50% of owner interests for consent approval. 	<ul style="list-style-type: none"> • Request and tabulate consent by MU at regional offices. • Standardize and automate calculations of consent response and authority. • Eliminate consent requirement for highly fractionated land.

Number 3: Beneficiary Rights

“As-Is”	“To-Be”	Initial Implementation Points (Final Gaps by February 28, 2004)
<ul style="list-style-type: none"> Beneficiary rights affecting trust land and natural resources are generally not documented in a manner readily accessible by trust personnel. Beneficiary rights are generally not considered in trust processes unless adjudication provides specific direction or remedy. 	<ul style="list-style-type: none"> Documented rights serve as input to Wide-Area and contract plans, and the monitoring and control of land use to support the protection of the rights. Beneficiary rights impacting trust land and natural resources are documented. The documented beneficiary rights are assigned a status, e.g. claimed, adjudicated, federally recognized. 	<ul style="list-style-type: none"> Document rights, provided by beneficiaries, which affect trust land and natural resources. Utilize documented rights as input to land and natural resource planning, probate, conveyance, and use and management functions.

Number 4: Owner Use

“As-Is”	“To-Be”	Initial Implementation Points (Final Gaps by February 28, 2004)
<ul style="list-style-type: none"> Landowners may use their land without BIA knowledge or approval. Owner use is usually not documented or monitored. Regulations relative to use by undivided interest owners requires only verbal consent and are followed inconsistently. 	<ul style="list-style-type: none"> Owner use and the intended use of the land are documented locally for both tribal and/or individual trust land owners. Undivided fractional interest owner secures DOI approval for use, consistent with consent requirements. Undivided fractional interest owner provides compensation to, or receive waiver from, other ownership interests for any sublease activity. 	<ul style="list-style-type: none"> Identify and document owner use at a local level. Provide a transition period for existing owner use to be authorized and documented. Require land use contracts for owner’s use or undocumented leasing.

Number 5: Control of Land and Natural Resource Use

“As-Is”	“To-Be”	Initial Implementation Points (Final Gaps by February 28, 2004)
<ul style="list-style-type: none"> • Trust lands not under contract are usually not monitored. • Trust lands under contract are generally monitored reactively. • Financial compliance with land use contracts is usually monitored infrequently. • Financial non-compliance (delinquency) rates are quite high in some areas. • Enforcement remedies are frequently not pursued due to either a lack of resources or established agreements with local authorities. • Annual realty reports frequently do not incorporate all types of land and natural resource use. • No comprehensive Natural Resource Report available. • Trend analysis and problem identification are performed infrequently. 	<ul style="list-style-type: none"> • Monitoring of all trust lands and use contracts occurs on a scheduled basis. • Monitoring and compliance status is tracked and documented according to type of land use. • All land use contracts are monitored for compliance at least once a year. • A comprehensive land summary with land status, resource inventory, use contract, and compliance information is prepared periodically from the integrated data. • Spatial data extracted from the integrated data is tied to land management reports, enabling trend analysis, problem identification, and mitigation planning. 	<ul style="list-style-type: none"> • Monitor all trust lands and land use contracts (annually for contracts) • Perform a regular review of land use status to identify profitable leasing opportunities and document liability mitigation for marginal land. • Standardize documentation and reporting of compliance activities. • Develop cross-jurisdictional agreements with tribes and/or public authorities to establish an escalation process for non-compliance enforcement. • Standardize a comprehensive report of land use activities. • Perform trend analysis, problem identification, and mitigation planning.